



- CITY OF BIGGS -
PLANNING DEPARTMENT STAFF REPORT

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Biggs, CA 95917

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DATE: March 19, 2012

TO: Honorable Mayor and Members of the City Council

FROM: Scott Friend, AICP City Planner

SUBJECT: Zoning Code Amendment Z2012-01 – Front Yard Decorative Fences

Report Summary:

Staff has prepared a Zoning Ordinance text amendment (Z2012-01) to Section 14.60.080, Fences and landscaping – General height limitations of the Biggs Municipal Code (BMC) to allow for the placement of decorative fences meeting the proposed standards within the public right-of-way in the front or street-side yard area.

With this report, staff is recommending that the City Council receive a report from City staff on this item, open the public hearing and take public testimony, close the public hearing and formally consider the proposed Code Amendment action. If this matter is approved by the City Council, staff will agendize the matter for a second reading of the Ordinance at the April City Council meeting. If additional changes are desired by the Council, the City Council may include the desired changes in its action motion. Staff is recommending that the City Council approve the request as presented unless additional edits are otherwise identified as being desirable.

Background - General:

Chapter 14 – Zoning; Section 14.60, Development Standards – General, of the Biggs Municipal Code (BMC) establishes the primary authority for the City's regulation of fences. Specifically, Sections 14.60.080, -.090, and -.100 provide the details of the City's fence code requirements (see *Attachment A*). In addition to Section 14.10, Definitions, of Chapter 14 provides definitions for terms used in the enforcement of the provisions of Section 14.60.080.

The Biggs Municipal Code currently defines the term "fence" as follows:

14.10.390 Fence. *"Fence" means a wall or barrier, typically constructed of wood, for the purpose of enclosing space, separating parcels of land and/or providing privacy. [Ord. 320 § 1, 1999]*

Section 14.60.080 currently establishes the following basic development standards for fences in the City of Biggs (see *Attachment A* for full details):

- Max. fence height in a front yard area: 4' (6' with a use permit)
- Max. fence height in a side- or rear-yard area: 6' (8' with a use permit)
- No barbed wire fences in residentially zoned areas;
- No electrified fences anywhere;

- Fences shall not be permitted which interfere with sight visibility issues or which present safety hazards;
- Fence exceeding three (3) feet in height shall not be permitted closer than 15 feet from the right-of-way in a front yard or street-side yard area.
- No fences are currently permitted within the public right-of-way.

BMC Citation: 14.60.080 – Fences and landscaping – General height limitations (*Attachment A*)

Discussion – General:

Currently, Section 14.60.080 of the Biggs Municipal Code does not allow for the placement of fences within the public right-of-way. Acting at the direction of the City Council following discussion and debate at the City Council meeting of January 23, 2012, staff has drafted proposed modifications to the text of Section 14.60.080 of the Biggs Municipal Code that would permit the placement of decorative fences having a height of four feet or less, or three feet or less within a sight visibility triangle, within the public right-of-way subject to the issuance of an encroachment permit from the City. The approval of an encroachment permit for this purpose would be subject to Conditions of Approval addressing potential issues to include access to public facilities and improvements within the public right-of-way, the signing of a waiver of liability for improvements within the public right-of-way and the signing of an agreement acknowledging that the fence is located on public property and may be removed by the City without reconstruction or compensation to the owner of the fence upon initiation of a project undertaking working within the affect section of the public right-of-way.

In addition, staff has made a number of minor additional edits to the text of this section to address numbering, regulation consistency, the placement and planting of screening vegetation and to add clarification to the existing standards.

Fiscal Impact:

Staff time for report preparation, preparation of amended text, and amendment processing. No direct fiscal impacts or supplemental funding impacts are anticipated to be necessary as a result of this project.

Environmental Review:

This action has been determined to be *exempt* from CEQA review pursuant to Public Resources Code Section 15305, Minor Alterations in Land Use Limitations (Class 5). No new construction would result from the amendment, no new parcels of land would be created and no new uses would be allowed or would occur. (Note: Authority cited: Section 15305, Public Resources Code).

Public Comment:

None Received.

Order of Council Proceedings:

1. Open the Public Hearing to consider comments on the proposed amendment to Section 14.60.080.
2. Following public comment, close the public hearing and consider the proposed amendment. Following that consideration, the Council may then vote regarding environmental review and adoption of the proposed amendment.

Sample Motion: Move that the City Council find the proposed action to be exempt from CEQA pursuant to State of California Code Section 15305; and move to approve the first reading of Ordinance 2012-___, approving project number Z2012-01, an amendment to

Section 14.60.080 of the Biggs Municipal Code regarding the placement of decorative fences.

Staff Recommendation:

Staff recommends that the City Council conduct the public hearing and following deliberation by the members of the Council, approve the first reading of the draft Code Amendment (see *Attachment A* to this report) identified as Z2012-01 amending Section 14.60.080 Fences and landscaping – General height limitations, to allow for the placement of decorative fences within the public right-of-way upon approval by the City of Biggs.

Attachments:

- Attachment A* - Draft Text: Amended Section 14.60.080 Fences and Landscaping of the Biggs Municipal Code.
- Attachment B* - Draft Ordinance 2012-____, Amending Section 14.60.080 Fences and Landscaping of the Biggs Municipal Code.
- Attachment C*- Draft Notice of Exemption

**City of Biggs Municipal Code - Chapter 14.60
DEVELOPMENT STANDARDS – GENERAL**

Section:

14.60.080 Fences and landscaping – General height limitations.

14.60.080 Fences and landscaping – General height limitations.

(1) On all lots except double frontage and key lots, fences, hedges, and similar obstructions, not including ornamental features and design elements of a conforming decorative fence, shall not exceed four feet in height in front yards, nor six feet in height in any required rear or side yard, unless additional height is authorized by a use permit issued pursuant to Chapter 14.90 BMC (Exceptions). No fence authorized under the provisions of Chapter 14.90 BMC (Exceptions) shall exceed six feet in height in any required front yard, or eight feet in height in any side or rear yard setback.

(2) On double frontage lots, fences, hedges, and similar obstructions, not including ornamental features and design elements of a conforming decorative fence, shall not exceed four feet in height in front yards, nor six feet in height in any required rear or side yard, unless additional height is authorized pursuant to Chapter 14.90 BMC (Exceptions).

(3) On key lots, fences and similar obstructions may be constructed within a required front yard setback area to match the height of an adjacent lot's legal existing side or rear yard fence subject to the requirements of sections (1) and (2) above.

(4) Decorative fences no greater the four feet in height, or three feet in height within a sight visibility triangle area, may be allowed within the public right-of-way subject to the approval of a fence permit and upon the issuance of an encroachment permit by the City. Where a decorative fence is permitted within the public right-of-way through the encroachment permit process, applicants shall be required to sign an agreement acknowledging that the fence is located within the public right-of way; acknowledging that the fence may be removed by the City or its authorized agents without compensation or replacement when authorized work within the affected section of the public right-of-way is undertaken; and, shall sign an indemnification agreement with the City. All approved Encroachment Permits for this purpose, along with the signed acknowledgement statements, shall be recorded against the property with the Butte County Recorder. Conditions of Approval may be added to both the fence permit and the encroachment permit addressing public safety issues related to obstruction of, and interference with, existing and proposed improvements in the right-of-way area (e.g. fire hydrants, street signs, underground utilities, etc.) as well as sight-distance and visibility issues.

(5) No fence greater than six feet in height may be authorized by use permit where such fence would be located within 10 feet of a residential structure either within the subject parcel or on an adjacent residential property.

(6) No fence, hedge, wall or other improvement within the sight distance zone, as defined in Chapter 14.10 BMC, shall exceed three feet in height and no tress or vegetation shall be planted within the sight distance triangle area. [Ord. 320 § 1, 1999]

(7) Fence, hedge, wall or similar barrier heights may be reduced from standards noted in Section 1, 2 and 3 above, to address non-intersection sight visibility concerns where it is determined that the fence, hedge, wall or barrier poses a hazard or safety risk to a public street, right-of-way or driveway.

(8) In no case shall a fence exceeding four ~~three~~ feet in height be located closer than 15 feet from the right-of-way in a front or street side-yard area. [Ord. 383, 2009; Ord. 320, 1, 1999]

(9) In no case shall a fence, hedge or wall, decorative or otherwise, be located closer than one foot behind the back edge of an existing developed sidewalk, pedestrian path, bike path or recognized public access way.

ORDINANCE NO. 394

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BIGGS AMENDING THE BIGGS MUNICIPAL CODE TO MODIFY REGULATIONS IN SECTION 14.60.080 RELATING TO THE PLACEMENT OF A FENCE WITHIN THE PUBLIC RIGHT-OF-WAY AND MAKING MINOR EDITS RELATED TO REGULATION CONSISTENCY AND APPLICABILITY

The City Council of the City of Biggs does hereby ordain as follows:

Section 14.60.080 of the City of Biggs Zoning Code shall be amended to read as follows (deletions are ~~overstruck~~, additions are underlined):

14.60.080 Fences and landscaping – General height limitations.

(1) On all lots except double frontage and key lots, fences, hedges, and similar obstructions, not including ornamental features and design elements of a conforming decorative fence, shall not exceed four feet in height in front yards, nor six feet in height in any required rear or side yard, unless additional height is authorized by a use permit issued pursuant to Chapter 14.90 BMC (Exceptions). No fence authorized under the provisions of Chapter 14.90 BMC (Exceptions) shall exceed six feet in height in any required front yard, or eight feet in height in any side or rear yard setback.

(2) On double frontage lots, fences, hedges, and similar obstructions, not including ornamental features and design elements of a conforming decorative fence, shall not exceed four feet in height in front yards, nor six feet in height in any required rear or side yard, unless additional height is authorized pursuant to Chapter 14.90 BMC (Exceptions).

(3) On key lots, fences and similar obstructions may be constructed within a required front yard setback area to match the height of an adjacent lot's legal existing side or rear yard fence subject to the requirements of sections (1) and (2) above.

(4) Decorative fences no greater the four feet in height, or three feet in height within a sight visibility triangle area, may be allowed within the public right-of-way subject to the approval of a fence permit and upon the issuance of an encroachment permit by the City. Where a decorative fence is permitted within the public right-of-way through the encroachment permit process, applicants shall be required to sign an agreement acknowledging that the fence is located within the public right-of-way; acknowledging that the fence may be removed by the City or its authorized agents without compensation or replacement when authorized work within the affected section of the public right-of-way is undertaken; and, shall sign an indemnification agreement with the City. All approved Encroachment Permits for this purpose, along with the signed acknowledgement statements, shall be recorded against the property with the Butte County Recorder. Conditions of Approval may be added to both the fence permit and the encroachment permit addressing public safety issues related to obstruction of, and interference with, existing and proposed improvements in the right-of-way area (e.g. fire hydrants, street signs, underground utilities, etc.) as well as sight-distance and visibility issues.

(5) No fence greater than six feet in height may be authorized by use permit where such fence would be located within 10 feet of a residential structure either within the subject parcel or on an adjacent residential property.

(6) No fence, hedge, wall or other improvement within the sight distance zone, as defined in Chapter 14.10 BMC, shall exceed three feet in height and no trees or vegetation shall be planted within the sight distance triangle area. [Ord. 320 § 1, 1999]

(7) Fence, hedge, wall or similar barrier heights may be reduced from standards noted in Section 1, 2 and 3 above, to address non-intersection sight visibility concerns where it is determined that the fence, hedge, wall or barrier poses a hazard or safety risk to a public street, right-of-way or driveway.

(8) In no case shall a fence exceeding four three feet in height be located closer than 15 feet from the right-of-way in a front ~~or street side-yard~~ area. [Ord. 383, 2009; Ord. 320, 1, 1999]

(9) In no case shall a fence, hedge or wall, decorative or otherwise, be located closer than one foot behind the back edge of an existing developed sidewalk, pedestrian path, bike path or recognized public access way.

I HEREBY CERTIFY that the above and foregoing Ordinance was introduced on the 19th day of March, 2012, and was passed and adopted by the City Council of the City of Biggs at a regular meeting thereof duly held on the _____ day of _____, 2012, by the following vote, to wit:

AYES: COUNCILMEMBER: _____

NOES: COUNCILMEMBER: _____

ABSENT: COUNCILMEMBER: _____

ABSTAIN: COUNCILMEMBER: _____

ATTEST:

APPROVED:

Roben Dewsnap
CITY CLERK

Roger L. Frith
MAYOR

NOTICE OF EXEMPTION

To: ☐ Office of Planning and Research
1400 Tenth Street
Sacramento, CA 95814

From: City of Biggs
Planning Department
P.O. Box 1134 / 3016 Sixth Street
Biggs, CA 95917

☒ County Recorder
Butte County
25 County Center Drive
Oroville, CA 95965

Project Title: AMENDMENT TO BMC Section 14.60.080 Fences and Landscaping – General Height Limitations.

Project Location: City of Biggs.

Assessor's Parcel Number(s): n/a (City-wide)

Project Description: An amendment to the Biggs Municipal Code Section 14.60.080 [Fences and Landscaping – General Height Limitations] to address the placement of fences within the public right-of-way and to make minor edits addressing consistency, landscape planting, separation of fences and sidewalks and permitting requirements.

Lead Agency: City of Biggs

Project Planner: Scott Friend

Exemption Status: ☐ Ministerial [Section 21080(b); 15268];
☐ General Rule [Section 15061(b)(3)];
☒ Categorical Exemption [Section 15305];
☐ Statutory Exemption;
☐ Declared Emergency (Sec. 21080(b)(3); 15269(a))
☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c))
☐ Other: Section 21169

REASONS WHY THIS PROJECT IS EXEMPT OR DOES NOT REQUIRE FURTHER ENVIRONMENTAL DOCUMENTATION:

This action has been determined to be exempt from CEQA review pursuant to Public Resources Code Section 15305, Minor Alterations in Land Use Limitations (a class 5 exemption). The proposed amendment would modify the existing text of Section 14.60.080 to allow for the placement of fences within the public right-of-way area and would better define and explain the intent and application of the Biggs Municipal Code Section 14.60.080 relative to vegetation planting and permitted fence locations.

City Planner
City of Biggs

By: _____
Scott Friend, AICP

Date: March 19, 2012